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14 UBER TECHNOLOGIES, INC.
and OTTOMOTTO LLC

15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN FRANCISCO DIVISION

18 WAYMO LLC,
19
20 Plaintiff,
21
22 v.
23 UBER TECHNOLOGIES, INC.,
OTTOMOTTO LLC; OTTO TRUCKING LLC,
24 Defendants.

Case No. 3:17-cv-00939-WHA

**DECLARATION OF KEVIN
FAULKNER REGARDING GOOGLE
DRIVE AND GMAIL MIGRATION**

Trial Date: October 10, 2017

DECLARATION OF KEVIN FAULKNER

I, Kevin Faulkner, declare as follows:

1 1. I am a Managing Director and head of the New York digital forensics lab at Stroz
2 Friedberg. I make this declaration based on personal knowledge and information developed
3 during the course of investigation and, if called as a witness, I would testify to the facts listed
4 below.

5 2. My April 7, 2017 declaration in support of Uber's Opposition to Waymo's Motion
6 for Preliminary Injunction, as well as my September 7, 2017 expert report, set forth Stroz
7 Friedberg's work to determine, to the extent possible, whether any Waymo confidential material
8 was placed on Uber's computer systems, and my background and experience in digital forensics.

9 3. I understand the Court has asked Uber to provide certain information regarding the
10 Google Drive and Gmail accounts assigned to Anthony Levandowski at Otto prior to their
11 acquisition by Uber. The specific account names are [REDACTED] and [REDACTED] (the
12 "Levandowski Otto Accounts").

13 4. I have confirmed with the Uber information technology team, their understanding
14 that the [REDACTED] account was migrated to the [REDACTED] account in March 2016, prior to
15 Uber's acquisition of Otto. I examined the data from the [REDACTED] account and found that the
16 information is consistent with Uber's understanding that the [REDACTED] account was
17 migrated to the [REDACTED] account in March 2016.

18 5. Specifically, the email evidence shows that the earliest email in the [REDACTED]
19 account referencing the email address [REDACTED] is an account setup email sent automatically by
20 Google when the email account was created, dated March 11, 2016. The oldest email in the
21 [REDACTED] account referencing the email address [REDACTED] is dated February 23, 2016. The
22 ottomotto.com messages present in the [REDACTED] account, dating from prior to the account's
23 creation, are consistent with email from the [REDACTED] account having been migrated into
24 the [REDACTED] account.

25 6. In the course of preparing for my September 28, 2017 deposition, my team worked
26 with Uber to re-confirm the disposition of certain accounts formerly used by Anthony
27 Levandowski discussed in the expert report of Paul French, submitted on behalf of Waymo.
28

1 7. When my team originally discussed available accounts for Anthony Levandowski
2 with Uber earlier this year, the Levandowski Otto Accounts were among those identified by Uber.
3 At that time, Uber's information technology team informed us of their understanding that the
4 Levandowski Otto Accounts had been migrated into Uber's email and Google Drive systems.

5 8. On September 27, 2017, my team requested that Uber re-confirm that all
6 Levandowski Otto Accounts were successfully migrated into Uber's email and Google Drive
7 systems. That evening Uber informed Stroz Friedberg that the [REDACTED] account contained data
8 that had not been migrated to Uber's systems.

9 9. Uber informed Stroz Friedberg that in response to our September 27, 2017 inquiry,
10 it examined Anthony Levandowski's robot@uber.com account and determined that it did not
11 contain data migrated from the [REDACTED] account. Uber investigated further and identified that the
12 ot.to Google customer account remained in an inactive state. Uber contacted Google to reactivate
13 the customer account, and identified the [REDACTED] email and Google Drive data.

14 10. Stroz Friedberg understands that Uber engaged an outside vendor to perform the
15 migration of data from the ot.to domain into the Uber.com domain, including both email and
16 Google Drive data, in November 2016. Uber informed me that it was notified by the vendor,
17 when the migration completed, that the data had been successfully migrated.

18 11. Uber IT provided Stroz Friedberg with a spreadsheet that mapped each Otto
19 account that the outside vendor was to migrate to an Uber account. That spreadsheet shows that
20 the [REDACTED] account was to be migrated to Uber's domain.

21 12. Stroz Friedberg understands from discussions with Uber IT, that during the
22 migration, all email routing to the ot.to domain was first directed to the Uber.com domain. Then,
23 the information in the old ot.to account was migrated to Uber.com. Stroz Friedberg understands
24 that a placeholder domain, [REDACTED]", was used as part of the migration process. The
25 domain [REDACTED] was configured on the old ot.to account as a placeholder, since a domain
26 must be specified, but the ot.to domain had been moved to the Uber.com account.

27 13. On September 27, 2017, Uber contacted their migration vendor, who subsequently
28 reviewed its records from the November 2016 migration. I have reviewed those records which

1 show that the migration of Mr. Levandowski's account, depicted with the placeholder domain as,
2 [REDACTED], to the Uber domain failed.

3 14. We understand through conversations with Uber that the vendor has no record of
4 previously notifying Uber of this migration failure.

5
6 I declare under the penalty of perjury under the laws of the United States of America that
7 the foregoing is true and correct. Executed this 29th day of September, 2017, in San Francisco,
8 California.

9
10 /s/ Kevin Faulkner
Kevin Faulkner

11
12 ATTESTATION OF E-FILED SIGNATURE

13 I, Arturo J. González am the ECF User whose ID and password are being used to file this
14 Declaration. In compliance with General Order 45, X.B., I hereby attest that Kevin Faulkner has
15 concurred in this filing.

16
17 Dated: September 29, 2017

18 /s/ Arturo J. González
ARTURO J. GONZALEZ